APPENDIX

The relevant regulations, as amended, 32 F.R. 7750 *et seq.*, are set forth as follows:

§ 404.971 Representation of party—appointment of representative.

A party in an action leading to an initial or reconsidered determination, hearing, or review, as provided in §§ 404.905 to 404.963, inclusive, may appoint as his representative in any such proceeding only an individual who is qualified under § 404.972 to act as a representative. Where the individual appointed by a party to represent him is not an attorney, written notice of the appointment must be given, signed by the party appointing the representative, and accepted by the representative appointed. The notice of appointment shall be filed at an office of the Administration, with a hearing examiner, or with the Appeals Council of the Administration, as the case may be. Where the representative appointed is an attorney, in the absence of information to the contrary, his representation that he has such authority shall be accepted as evidence of the attorney's authority to represent a party.

§ 404.975 Fee for services performed for an individual before the Social Security Administration.

(a) *General.* A fee for services performed for an individual before the Social Security Administration in any proceeding under titles II or XVIII of the Act may be charged and received only as provided in paragraph (b) of this section.

(b) *Charging and receiving fee.* An individual who desires to charge or receive a fee for services rendered for an individual in any proceeding under titles II or XVIII of the Act before the Administration (see § 404.977a), and who is qualified under § 404.972, must file a written petition therefor in accordance with § 404.976(a). The amount of the fee he may charge or receive, if any, shall be determined on the basis of the factors described in § 404.976(b) by an authorized official of the appropriate component of the Administration, where the services were concluded by an initial or reconsidered determination, or by the Bureau of Hearings and Appeals where there is a decision or action by a hearing examiner or the Appeals Council of the Social Security Administration, as the case may be. Every such fee which is charged or received must be approved as provided in this section and no fee shall be charged or received which is in excess of the amount so approved. This rule shall be applicable whether the fee is charged to or received from a party to the proceeding or someone else.

§ 404.976 Petition for approval of fee.

(a) *Filing of petition.* In accordance with § 404.975, to obtain approval of a fee for services performed before the Social Security Administration in any proceeding under the Act, a representative, upon completion of the proceedings in which he rendered services, must file at an office of the Social Security Administration a written petition which shall contain the following information:

(1) The dates his services began and ended;

(2) An itemization of services rendered by him in a proceeding under the Act, with the amount of time spent in hours, or parts thereof, on each type of service;

(3) The amount of the fee he desires to charge for services performed;

(4) The amount of fee requested or charged for services rendered in the same matter before any State or Federal court;

(5) The amount and itemization of expenses incurred for which reimbursement has been made or is expected;

(6) The special qualifications which enabled him to render valuable services to the claimant (this requirement does not apply where the representative is an attorney); and

(7) A statement showing that a copy of the petition was sent to the person represented.

(b) *Factors considered in evaluating a petition for fee.* In evaluating a request for approval of a fee, the purpose of the social security program—to provide a measure of economic security for the beneficiaries thereof—will be considered, together with the following factors:

(1) The services performed (including type of service);

(2) The complexity of the case;

(3) The level of skill and competence required in rendition of the services;

(4) The amount of time spent on the case;

(5) The results achieved. (While consideration is always to be given to the amount of benefits, if any, which are payable in a case, the amount of fee will not be based on the amount of such benefits alone but on a consideration of all of the factors listed in this section. The benefits payable in a given claim are governed by specific statutory provisions and by the occurrence of termination, deduction, or nonpayment events specified in the law, factors which are unrelated to efforts of the representative. In addition, the amount of accrued benefits payable in a given claim is

affected by the length of time that has elapsed since the claimant became entitled to benefits.);

(6) The level of administrative review to which the claim was carried within the Social Security Administration and the level of such review at which the representative entered the proceedings; and

(7) The amount of the fee requested for services rendered, excluding the amount of any expenses incurred, but including any amount previously authorized or requested.

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